

Order

Michigan Supreme Court
Lansing, Michigan

December 28, 2005

Clifford W. Taylor,
Chief Justice

129008

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

BRIAN KILLINGBECK,
Plaintiff-Appellee,

v

SC: 129008
COA: 251928
Mackinac CC: 99-004913-NZ

FLOTATION DOCKING, INC.,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the May 26, 2005 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals and REINSTATE the judgment of the Mackinac Circuit Court. Summary disposition was properly granted to defendant where plaintiff failed to provide any direct evidence of retaliation in violation of MCL 418.301(11). Plaintiff's ambiguous question asked of defendant's supervisory employee could at most be deemed a reference to defendant's letter of September 1, 1999, advising plaintiff that there was no position available for him at that time, should his doctor release him to return to work. Nothing in that letter revealed an improper discriminatory motive, and the letter was in fact neither a termination letter, nor an adverse employment action.

CAVANAGH and KELLY, JJ., would deny leave to appeal.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 28, 2005

Corbin R. Davis

Clerk